

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 18,910
	)	
Appeal of	)	
	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his son from the Medicaid (Dr. Dynasaur) program due to the family's income. The issue is whether the income of the petitioner's new wife should be included in calculating the son's eligibility.

FINDINGS OF FACT

1. The petitioner's thirteen-year-old son is a Dr. Dynasaur recipient.

2. On December 23, 2003, the petitioner married, which event he duly reported to PATH. PATH had the family fill out new application forms. The petitioner reported that he has monthly income of \$2,363.76. His new wife has monthly income of \$2,623 per month. PATH added these figures together and deducted \$90 for each working parent. The balance, \$4,806.76 was counted to determine the family's eligibility. PATH

determined that the income is in excess of maximums allowed for the program.

3. PATH notified the petitioner by a letter dated February 2, 2004 that his son would no longer be eligible for Dr. Dynasaur due to the family's income. PATH did calculate a spend-down for the son alone by attributing a third of the family's income to him for a total of \$7,495.20. It was explained to the family that if the son incurs this amount in medical bills during the next six months, he could be found eligible for Medicaid.

4. The petitioner has no insurance through his self-employment. His wife had insurance through her employer before they were married but she dropped it because at \$392 per month she thought it was too expensive.

5. The sole issue the petitioner has with PATH's action is the inclusion of his wife's income in the "family income." He maintains that his wife's income should not be counted because his wife is not part of his son's biological family.

ORDER

The decision of PATH denying benefits is affirmed.

REASONS

PATH regulations governing the Dr. Dynasaur (Medicaid) program require that an applicant demonstrate financial need by showing that he is a member of a household with total income under the applicable level for a household of his size. W.A.M. 3001.3. The regulations define household, in pertinent part, as follows:

. . . The household of a child applying for Dr. Dynasaur must include the following individuals if they are living in the household with the child:

- all children under eighteen for whom Dr. Dynasaur coverage has been requested.
- all unmarried and unemancipated siblings (biological, step or adopted) who are under the age of twenty-one
- the parents (biological, **step**, and adoptive) of all the children included in the household.

W.A.M. 300.31 (emphasis supplied)

The petitioner's wife is the stepmother of his son. As such, her income must be included since they all live in the same household. The income of a three-person household in the Dr. Dynasaur program may not exceed \$3,918 per month. P-2420B(1). As the petitioner's family has countable income of \$4,806 per month, they are over the maximum limit.

The petitioner argues that PATH's regulation is not consistent with his wife's obligation under state law which he says does not require her to support her stepson. That assertion is incorrect. State law specifically requires stepparents who live in the same household with their stepchildren to provide them support if the financial assistance of their biological parents is insufficient to meet their needs. 15 V.S.A. § 296. Since the biological parent's income in this case is insufficient to provide for his medical needs, it is consistent with state law to require the stepparent to contribute. As PATH's decision is in accord with its regulations and the regulations are consistent with state law, the Board is bound to uphold the result. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

# # #